

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julian Phillips	Team: Squad #9	CCRB Case #: 201610146	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 12/05/2016 6:14 PM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 6/5/2018	EO SOL 6/5/2018	
Date/Time CV Reported Fri, 12/09/2016 2:43 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 12/09/2016 2:43 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Miguel Vanbrakle	28743	955616	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Taylor Burger	29044	954581	067 PCT
2. POM John Nemeth	17897	955259	067 PCT
3. POM Ronnie Rivera	10655	955385	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Miguel Vanbrakle	Abuse: Police Officer Miguel Vanbrakle threatened § 87(2)(b) with the use of force.	§ 87(2)(b)

Case Summary

On December 9, 2016 at 2:43 a.m., § 87(2)(b) filed this complaint with the CCRB via the on-line website of the 311 Customer Service Center.

On December 5, 2016 at 4:54 p.m., § 87(2)(b) called 911 to request that officers respond to § 87(2)(b) in Brooklyn, pursuant to an ongoing landlord-tenant dispute between herself and § 87(2)(b) a tenant of that residence. § 87(2)(b) is owned by § 87(2)(b)'s father, § 87(2)(b) and § 87(2)(b) had been attempting to evict § 87(2)(b) for several months. PO Taylor Burger and PO John Nemeth, both of the 67th Precinct, arrived at the scene at approximately 6:14 p.m. and interviewed § 87(2)(b) and § 87(2)(b). Several minutes later, PO Miguel Vanbrakle and PO Ronnie Rivera, also of the 67th Precinct, arrived at the residence and spoke to § 87(2)(b). PO Vanbrakle informed § 87(2)(b) that she would be placed under arrest, approached her, and prepared to apply handcuffs to her wrists. As he prepared to apply the handcuffs, PO Vanbrakle allegedly said to § 87(2)(b) "If you don't shut up, I'm going to yank you in the air" (**Allegation A**). § 87(2)(b) was transported to the 67th Precinct stationhouse where she was issued a Desk Appearance Ticket under an open complaint report citing her for attempting to illegally evict § 87(2)(b) on November 5, 2016.

There is no video footage of this incident.

Mediation, Civil and Criminal Histories

- This case was deemed ineligible for mediation because § 87(2)(b) resides in North Carolina and is only occasionally in New York City.
- A Freedom of Information Law Request for a Notice of Claim filed regarding this incident was submitted to the New York City Comptroller on February 6, 2017 (Board Review 01). Any responsive Notice of Claim will be added to the case file upon receipt.
- Over the past ten years, § 87(2)(b) has received no criminal convictions (Board Review 02).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) (Board Review 03).
- PO Miguel Vanbrakle has been a member of the NYPD for three years and has been the subject of seven CCRB allegations involving two cases, with no substantiated allegations (Board Review 04).
 - In case number 201700442, PO Vanbrakle was the subject of an Abuse of Authority—Threat of Force allegation. In this case, PO Vanbrakle allegedly threatened to break the arm of and kill a defendant during a scuffle involving multiple officers in a precinct holding cell. This case is currently being investigated by the CCRB.

Potential Issues

- § 87(2)(b) stated that she possessed a partial audio recording of a conversation between § 87(2)(b) PO Burger, and PO Nemeth, recorded on the date of the incident. As described by § 87(2)(b) this recording did not capture any interactions between herself and PO Vanbrakle. Despite repeated requests, § 87(2)(b) did not furnish this recording to the investigation.
- This incident was witnessed by § 87(2)(b)'s father, § 87(2)(b) provided a telephone statement for the investigation from his residence in North Carolina, but was only able to recall a few details from the incident. § 87(2)(b) is § 87(2)(b) old and, according to § 87(2)(b) suffers from Alzheimer's Disease and Dementia. As such, a sworn statement was not obtained from § 87(2)(b).
- This incident was witnessed by § 87(2)(b) the girlfriend of § 87(2)(b)'s nephew. § 87(2)(b) was contacted, provided a brief telephone statement, and scheduled an interview with the CCRB. § 87(2)(b) however, did not appear for her scheduled interview. Voicemails were left for § 87(2)(b) on January 17, 2017, January 19, 2017, January 23, 2017, and January 25, 2017. Letters were sent to § 87(2)(b) on January 17, 2017 and January 24, 2017. Searches of the New York State DMV, the Coles Directory, BADS, LexisNexis, CLEAR, and the New York City DOC did not yield any additional working phone numbers for § 87(2)(b). To date, § 87(2)(b) has not contacted the undersigned to reschedule her interview.

Findings and Recommendations

Allegation A – Abuse of Authority: On December 5, 2016 Police Officer Miguel Vanbrakle threatened § 87(2)(b) with the use of force.

§ 87(2)(b) stated that, after a lengthy conversation between herself and the four responding officers about her ongoing landlord-tenant dispute with § 87(2)(b) PO Vanbrakle informed her that she would be placed under arrest. In response to this statement, § 87(2)(b) stood up and asked PO Vanbrakle three times to briefly delay placing her in handcuffs so she could administer medication to herself and § 87(2)(b). PO Vanbrakle refused these requests, and offered to request an ambulance to assist § 87(2)(b). Neither PO Vanbrakle nor any other officer made any commands to § 87(2)(b) at this time. PO Vanbrakle approached § 87(2)(b) grasped hold of her arms, and allegedly said, "If you don't shut up, I'm going to yank you in the air." PO Vanbrakle then pulled § 87(2)(b)'s arms behind her back and handcuffed her.

§ 87(2)(b) in a telephone interview, stated that PO Vanbrakle ordered § 87(2)(b) to stand up and place her hands behind her back and that § 87(2)(b) complied with these commands. § 87(2)(b) conversed with the officers for approximately three minutes before PO Vanbrakle

approached her and handcuffed her. § 87(2)(b) did not report that PO Vanbrakle made any statement similar to, “If you don’t shut up, I’m going to yank you in the air.”

§ 87(2)(b) was able to recall only a few details from the incident. § 87(2)(b) stated that, after a conversation between § 87(2)(b) and PO Vanbrakle about § 87(2)(b)’s dispute with § 87(2)(b), PO Vanbrakle prepared to leave § 87(2)(b). § 87(2)(b) requested PO Vanbrakle’s name and shield number. Without saying anything, PO Vanbrakle approached § 87(2)(b) and handcuffed her.

PO Vanbrakle stated that, upon confirming that the complaint report citing § 87(2)(b) for attempting to illegally evict § 87(2)(b) was open (Board Review 05), an officer informed § 87(2)(b) that she would be arrested and ordered her to stand and put her hands behind her back. PO Vanbrakle could not remember for certain whether he was the officer who made these statements. § 87(2)(b) complied. § 87(2)(b) expressed concern about her father’s health, but did not do anything to resist or delay being placed in handcuffs. An officer handcuffed § 87(2)(b). PO Vanbrakle did not say anything to § 87(2)(b) as she was being handcuffed. PO Vanbrakle denied saying, “If you don’t shut up, I’m going to yank you in the air.” PO Vanbrakle stated that there was never any cause to forcibly lift § 87(2)(b).

PO Rivera’s statement was generally consistent with that of PO Vanbrakle. PO Rivera denied that PO Vanbrakle or any other officer stated, “If you don’t shut up, I’m going to yank you in the air.”

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g).

Squad: 9

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date

